July 29, 2025

Chair Ted Cruz
United States Senate
167 Russell Senate Office Building
Washington, D.C. 20510

Ranking Member Maria Cantwell
United States Senate
511 Hart Senate Office Building
Washington, D.C. 20510

Re: VOTE YES – S.1691, Traveler Privacy Protection Act

Dear Chair Cruz, Ranking Member Cantwell, and members of the Committee on
Commerce, Science, and Transportation:

We write in support of Sen. Merkley and Sen. Kennedy's *Traveler Privacy Protection Act*.
The bill would be a significant step forward in ensuring that the use of facial recognition
technology by the Transportation Security Administration (TSA) is safe, fair, and respectful
of our privacy and civil liberties. To date, TSA's deployment of facial recognition technology
has been subject to little oversight and few legal safeguards. The *Traveler Privacy
Protection Act* would enshrine TSA's current policies in law, ensure that travelers are in
control of their privacy, and prevent TSA from repurposing our data to build a vast facial
recognition surveillance system.

The bill would largely codify and improve upon current practices that TSA has already
implemented in airports around the country. The codification would ensure that safeguards
are established in law and prevent future administrations from changing those practices or
repurposing our data. Those safeguards would include guaranteeing travelers' ability to
opt-out of facial recognition technology, limiting the time our data is retained, and ensuring
that our facial scans are only used for verifying our identities — not surveillance. In
addition, TSA would be required to ensure that its officers are trained to respond to
travelers' requests, that adequate signage and notice are provided to travelers, and that the
technology is subject to a report by the Comptroller General. These are commonsense
safeguards.

Establishing robust safeguards around facial recognition technology's explosive growth is
crucial for protecting civil rights and civil liberties. Numerous studies — including those
conducted by the TSA and the Department of Homeland Security — have shown that facial
recognition technology is less accurate for people of color and other marginalized groups.[1]

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[1] NIST Study Evaluates Effects of Race, Age, Sex on Face Recognition Software (2019).

Even a seemingly small difference in accuracy multiplied across millions of daily travelers[2] can result in tens of thousands of people — and particularly people of color — being incorrectly flagged.

Moreover, facial recognition technology is a particularly salient threat to civil liberties. Facial recognition technology is capable of surveilling individuals at a distance, may take advantage of already ubiquitous existing camera infrastructure, and may be built on countless databases of our images, often mined without our consent for biometrics.

TSA purports to protect against these harms through safeguards such as limiting the technology to verifying identity documents and deleting data within 180 days. However, these protections are not guaranteed by law, but only by grace of TSA policy. Those protections may be altered quickly through changes to internal TSA policy or the agency's Privacy Impact Assessments. In addition, without meaningful oversight by independent auditors, the Inspector General, or the Government Accountability Office, there is no way to know that TSA's promises are being reflected in practice.

The fleeting nature of those protections is demonstrated by TSA's oft-repeated vision that identity verification is only one step in its wider plan for biometrics. TSA has expressly stated that biometrics will play a role in a "curb to-gate or even reservation-to-destination" experience.[3] Biometrics may also not remain optional; in a March 2023 session at SXSW, then-TSA Administrator David Pekoske stated that "eventually we will get to the point where we will require biometrics across the board."[4]

Talking points in favor of TSA's use of facial recognition technology do not address core concerns with the technology:

- **TSA's facial recognition technology may still show significant bias and inaccuracies.** Some proponents for facial recognition technology claim that the technology is 98% accurate, but the study that produced that figure was not conducted by an independent audit, and it reported that the median system failed to meet the accuracy threshold for individuals with darker skin tones — with some systems having an accuracy differential of 10% based on skin tone.[5]
- **TSA has provided no evidence that facial recognition makes travel safer or more efficient.** TSA has not provided any evidence that facial recognition has made the airport experience safer or more seamless, despite the fact that it has been piloting the technology since 2018,[6] and common experience would lead to the opposite conclusion: the bottleneck lies in the luggage screening process, and replacing a manual ID check with facial recognition technology will not alleviate that bottleneck.

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[2] TSA Checkpoint Travel Numbers (2024).
[3] TSA Biometrics Strategy (2018).
[4] SXSW, Accelerating Aviation Security: Innovative New Technology Keeping the Skies Safe (2023).
[5] Science & Technology Directorate, Assessing Variation in Human Skin Tone to Inform Face Recognition System Design (2022).
[6] TSA, PIA-46: Travel Document Checker Automation Using Facial Recognition (2018).

- **There is no guarantee that facial recognition will be limited to checking identity documents.** As noted above, TSA in fact intends to expand its reliance on biometrics across the travel experience.

Given the above concerns, **members of the Committee should vote "yes" on the *Traveler Privacy Protection Act*** to mandate key safeguards *by law*, including protecting travelers' ability to opt-out of facial recognition technology, limiting TSA to using our facial scans only for verifying our identities, and imposing robust limitations on how long TSA may retain our facial scans. These measures help ensure that a system that is purportedly being deployed to make travel safer and more efficient does not metastasize into a perpetual surveillance system.

The Privacy and Civil Liberties Oversight Board recently issued a comprehensive staff report on TSA's use of facial recognition technology and similarly recommended that TSA take steps to preserve the voluntariness of the technology, train officers in responding to traveler requests, protect against re-purposing of data, and minimize its retention.[7]

Finally, we understand that a coalition of travel industry groups raised concerns about the bill in a July 28 letter addressed to you.[8] The letter's concerns are misplaced and rooted in mischaracterizations of the bill:
- **The bill does not "ban" facial recognition technology.** The letter refers to the bill as imposing a "blanket ban," with "very limited exceptions." This is not true. The bill preserves TSA's ability to employ identity verification technology, subject to legal safeguards.
- **The bill would not "thwart" travel modernization.** The letter claims that the *Traveler Privacy Protection Act* would "jeopardize" efficient air travel ahead of major events over the next two years. The bill would not have that effect. It does not prevent the use of facial recognition technology for its current use case — identity verification — and any benefits that the technology brings to travelers would continue to be available.
- **The bill would not have broad, "troubling impacts" across air travel.** The letter also marshals an unsubstantiated parade of horribles that the bill would purportedly unleash, such as curtailing technology used by Customs and Border Patrol (CBP), obstructing airlines' use of "e-gates," undermining REAL ID, or evidently reinstating the "shoes off" policy. Of course, the bill does not regulate CBP or airlines or even remotely touch on REAL ID or other policies. Those are topics worthy of discussion, but are not addressed or affected by this bill.

We urge you to support the *Traveler Privacy Protection Act*. Please do not hesitate to contact us at cvenzke@aclu.org.

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[7] Privacy and Civil Liberties Oversight Board, Staff Report: Use of Facial Recognition Technology by the Transportation Security Administration (May 9, 2025).
[8] Aerospace Global News (July 29, 2025).

Sincerely,

American Civil Liberties Union
Electronic Privacy Information Center
Fight for the Future
Project on Government Oversight